REMARKS

In response to the final Office Action mailed May 3, 2005, reconsideration is respectfully requested. To further the prosecution of this Application, claims have been cancelled and amended as described below. It is respectfully submitted that this amendment places the application in condition for allowance, and therefore entry of this amendment is proper in this after-final period. Specifically, the claims are amended to add the features of cancelled dependent claims into respective independent claims, and thus no new issues requiring further consideration and/or search are raised by this amendment.

Claims 1-19 were pending in this Application. By this Amendment, claims 6, 12, 15 and 17 have been cancelled, and their respective subject matter has been incorporated into the respective independent claims. New claims 21-26 are added. Other claim amendments have been made solely for consistency. Claims 1-5, 7-11, 13-14, 16, 18-19, and 21-26 are now pending in this Application. Claims 1, 3, 8, 9 and 14 are independent claims.

To the extent that the present amendment effects a cancellation of the independent claims as previously pending, such cancellation is not to be deemed a disclaimer of subject matter nor any acquiescence to the assertions and conclusions in the Office Action. Specifically, the rejections based on Ebrahim and Higuchi are seen to be tainted by hindsight and thus not proper under 35 U.S.C. § 103(a). Nonetheless, claim amendments are made herein in the interest of clearly distinguishing the prior art and thereby advance prosecution toward allowance. Applicant reserves the right to pursue claims of the same or similar scope in a subsequent application.

Rejections under §102 and §103

Claims 1, 3, 8, 9, 14-15 and 17-18 were rejected under 35 U.S.C. §103(a) as being obvious in view of Ebrahim and Higuchi, and claims 2, 4-7, 10-13, 16 and 19 were rejected under 35 U.S.C. §103(a) as being obvious in view of

Ebrahim, Higuchi, and Shaikh. These rejections are respectfully traversed with respect to the claims as amended herein.

Claim 1 as amended is directed to a content distribution system that includes a domain name service (DNS) server having a controller that is configured, among other things, to

> "...select the content server identifier from a predetermined group of content server identifiers based on (i) a the client identifier which identifies a the client when the second domain name service request further includes the client identifier, and (ii) a the data communications device identifier when the second domain name service request does not include the client identifier, and
>
> provide the domain name service response to the data communications device through the interface, the domain name service response having the selected content server identifier which identifies a content server."

In the system of claim 1, the server identifier ultimately returned to the client depends on whether the client identifier is included in the second DNS request. If so, then a server selection is made based on the client identifier. If not, then it is based on the data communications device identifier.

The Office Action states on page 5 that Ebrahim discloses such a domain name service server, specifically referring to the client IP address (col. 4 lines 15-21 of Ebrahim) and the domain name of the DNS request (col. 4 lines 22-31). Respectfully, this characterization of Ebrahim is erroneous. Firstly, there is no indication that in Ebrahim that any selection from among multiple servers is performed if DNS resolution is done in the "context free" manner referred to in this section. All that is stated is that in this case the name resolution is based on the "name" being resolved (i.e., the domain name), with no mention of selecting among multiple servers. Moreover, the domain name in Ebrahim identifies only the host that the requestor is trying to obtain service from. Claim 1 requires that

a content server identifier be selected based on the data communications device identifier when the client identifier is not present, where the data communications device is the device (such as a proxy) that intercepts the first DNS request and sends the second DNS request to the DNS server (as set forth in claim 1). Because the domain name in Ebrahim identifies a target host and not a "data communications device" as that term is used in claim 1, Ebrahim is not seen to teach at least the above elements of claim 1. Accordingly, the combination of Ebrahim and Higuchi does not teach or suggest all the elements of claim 1, and therefore cannot render claim 1 obvious under 35 U.S.C. § 103(a).

Claim 3 as amended is directed to a data communications device that includes a controller configured, among other things, to:

> ...provide a second domain name service request to a domain name service server through the interface in response to interception of the first domain name service request, the second domain name service request selectively (i) including a client identifier which identifies the client, and (ii) not including the client identifier which identifies the client, based on a selection decision,
>
> ...

and wherein the first domain name service request includes a domain name field which contains a domain name, and wherein the controller includes:

> processing circuitry which is configured to generate, as the selection decision, a result having a first value when the domain name belongs to a predetermined group of domain names and a second value when the domain name does not belong to the predetermined group of domain names.

The Office Action alleges on page 7 that the above functionality is somehow taught or suggested by the combination of Shaikh Section 5 (DNS Protocol Modifications) and alleged knowledge that "DNS requests are routed to particular DNS servers based on the requested domain name, by comparing the

requested domain name against a list of domain names stored in memory at the client or a proxy," concluding that "it would have been obvious...to selectively embed DNS requests with a client ID when the DNS server receiving the DNS request will be able to properly interpret the request, thereby ensuring backward compatibility as discussed by Shaikh."

However, the Office Action ignores the remainder of this section of Shaikh which states that "a more backward compatible approach is to define a new DNS resource record ...," and notes that "this extension can be incrementally deployed...[such that] nameservers that do not understand the new type will simply ignore it." This teaching directly contradicts the conclusion stated in the Office Action. Shaikh teaches to use a new type such that it can be easily ignored by nameservers that do not conform to the new technique, rather than any alternative that involves existing types in the DNS request. Shaikh clearly does not suggest any selective inclusion of the new type, but rather implicitly suggests that it always be included and when the request is processed by a nameserver that does not support the functionality, the added type will be simply ignored. Thus contrary to the assertions and conclusions in the Office Action, neither Shaikh nor the other art of record is seen to teach or suggest the above-recited elements of claim 3, and therefore claim 3 is not obvious in view of these references.

The remaining claims incorporate, either directly or indirectly, features such as those discussed above with respect to claims 1 and 3, and therefore the remaining claims are also allowable for at least the reasons given above.

New Claims

New dependent claims 21-26 are added. Claim 21 is dependent from claim 1 and recites subject matter like that added to independent claims 3, 8, 9 and 14. Claims 22-26 all recite the additional feature that the predetermined group of domain names are domain names served by content servers identified by respective ones of the group of content identifiers among which the domain

name service server selects. Support for these claims can be found in Figure 4 and pages 11-12 of the application text.

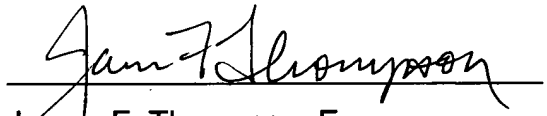
Conclusion

In view of the foregoing remarks, this Application should be in condition for allowance. A Notice to this effect is respectfully requested. If the Examiner believes, after this Response, that the Application is not in condition for allowance, the Examiner is respectfully requested to call the undersigned Attorney at the number below.

Petition is hereby made for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-3661.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 616-2900, in Westborough, Massachusetts.

Respectfully submitted,



James F. Thompson, Esq.
Attorney for Applicant(s)
Registration No.: 36,699
Bainwood, Huang & Associates, L.L.C.
Highpoint Center
2 Connector Road
Westborough, Massachusetts 01581
Telephone: (508) 616-2900
Facsimile: (508) 366-4688

Attorney Docket No.: 1004-050

Dated: June 30, 2006